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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,699	07/03/2003	Steven J. Rocci	BNWL-0006	7197

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EXAMINER	
NGUYEN, PHUNG	
ART UNIT	PAPER NUMBER
2632	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,699	ROCCI, STEVEN J.	
	Examiner	Art Unit	
	Phung T Nguyen	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *07/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21, 22, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 21, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 22 and 27 are rejected for incorporating the above deficiency by dependency.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 9, and 25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,661,343.

Claims 1-22 of '343 patent claim all the limitation of the current application except that the receiver adapted to provide an indication. However, the '343 patent discloses the transceiver adapted to provide an indication that a signal has been received from a transponder (col. 3, lines 60-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to readily recognize that the transceiver of '343 patent is a receiver because they both perform the same function.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 19, 20, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (U.S. Pat. 6,057,764) in view of Lyons et al. (U.S. Pat. 6,411,209) and further in view of VonBargen (U.S. Pat. 5,708,273).

Regarding claim 19: Williams discloses dynamically bypassed alarm system which comprises an authorization signal to bypass sensors in a secure space (col. 1, lines 54-63). Williams does not disclose a normally open shutter adapted to be mounted over an infra-red sensing window of the motion detector and that prevents any substantial infra-red radiation from passing there-through to the sensing window when closed. Lyons et al. teach an infrared motion detector 110 for detecting the presence of an unauthorized intruder (col. 3, lines 22-32). Since they both teach a security monitoring system using motion detectors, it would be obvious to use the infrared motion detector as taught by Lyons et al. in the system of Williams so that any

intruder will be detected as he moves about. Williams and Lyons et al. do not teach a housing containing a circuit that closes the shutter in response to receipt of a signal. However, VonBargen teaches a light source 10 having a shutter 12 that is operated in response to a signal from the central processing unit 20 (figure 1, col. 5, lines 44-55). Therefore, it would be obvious to one of ordinary skill in that art at the time the invention was made to utilize the technique of VonBargen in the system of the combination in order to close the shutter in response to receipt of the signal.

Regarding claim 20: Williams teaches a transmitter adapted to be worn by an object and that provides the authorization signal (col. 1, lines 54-62).

Regarding claim 23: Williams teaches the housing is adapted to be affixed on or near the motion detector (col. 2, lines 66-67, and col. 3, lines 1-4).

Regarding claim 24: The combination does not disclose the shutter is flexible and comprises a liquid crystal material as claimed. Since VonBargen teaches the light source having the shutter 12, it would be obvious to have the shutter is flexible and comprises a liquid crystal material so that the infrared radiation can pass through the window.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Small [U.S. Pat. 6,297,739] disclose a system and method for providing access to selected animals to a secured enclosure.

b. Lewis et al. [U.S. Pat. 3,891,980] disclose security system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung Nguyen whose telephone number is (703) 308-6252. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu, can be reached on (703) 308-6730. The fax number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Examiner: Phung Nguyen

Date: July 22, 2004